

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§ Group Art Unit: 2176
Hung T. Dinh, <i>et al.</i>	§
Serial No.: 10/631,057	§ Examiner: Tran, Quoc A.
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Title: Image Distribution In Data Processing Systems	§ Customer No.: 34533
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APPEAL BRIEF

Honorable Commissioner:

This is an Appeal Brief filed pursuant to 37 CFR § 41.37 in response to the Final Office Action of February 21, 2007 (hereinafter the “Office Action”), and pursuant to the Notice of Appeal filed May 21, 2007.

REAL PARTY IN INTEREST

The real party in interest in accordance with 37 CFR § 41.37(c)(1)(i) is the patent assignee, International Business Machines Corporation (“IBM”), a New York corporation having a place of business at Armonk, New York 10504.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences within the meaning of 37 CFR § 41.37(c)(1)(ii).

STATUS OF CLAIMS

Status of claims in accordance with 37 CFR § 41.37(c)(1)(iii): Thirty-three (33) claims are filed in the original application in this case. Claims 1-33 are rejected in the Office Action. Claims 1-33 are on appeal.

STATUS OF AMENDMENTS

Status of amendments in accordance with 37 CFR § 41.37(c)(1)(iv): No amendments were submitted after final rejection. The claims as currently presented are included in the Appendix of Claims that accompanies this Appeal Brief.

SUMMARY OF CLAIMED SUBJECT MATTER

Appellants provide the following concise summary of the claimed subject matter according to 37 CFR § 41.37(c)(1)(v). This summary includes a concise explanation of the subject matter defined in each of the independent claims involved in the appeal and includes references to the specification by page and line number and to the drawings by reference characters. The six independent claims involved in this appeal are claims 1, 7, 12, 18, 23, and 29. Claims 1 is a method claim. Claim 12 and 23 recite counterpart aspects of the method of claim 1. Claim 12 recites system aspects of the method of claim 1. Claim 23 recites computer program product aspects of the method of claim 1. Claim 7 is also a method claim. Claims 18 and 29 recite counterpart aspects of the method of claim 7. Claim 18 recites system aspects of the method of claim 7. Claim 29 recites computer program product aspects of the method of claim 7.

Claim 1 recites a method of distributing images in a data processing system (page 21, lines 12-13, and Figure 3). The method of claim 1 includes receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document (page 21, lines

12-16, and Figure 3 at reference characters 304, 306, 308, 310, and 312). The method of claim 1 also includes retrieving the images, from the data processing system, in response to receiving the image group identifier (page 23, lines 19-20, and Figure 3 at reference characters 316, and 310).

Claim 12 recites a system of distributing images in a data processing system (page 21, lines 12-13, and Figure 3). The system of claim 12 includes means for receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document (page 21, lines 12-16, and Figure 3 at reference characters 304, 306, 308, 310, and 312). The system of claim 12 also includes means for retrieving the images, from the data processing system, in response to receiving the image group identifier (page 23, lines 19-20, and Figure 3 at reference characters 316, and 310).

Claim 23 recites a computer program product of distributing images in a data processing system (page 21, lines 12-13, and Figure 3). The computer program product of claim 23 includes a recording medium (page 7, line 21, through page 8, line 5). The computer program product of claim 23 also includes means, recorded on the recording medium, for receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document (page 21, lines 12-16, and Figure 3 at reference characters 304, 306, 308, 310, and 312). The computer program product of claim 23 also includes means, recorded on the recording medium, for retrieving the images, from the data processing system, in response to receiving the image group identifier (page 23, lines 19-20, and Figure 3 at reference characters 316, and 310).

Claim 7 recites a method of distributing images in a data processing system (page 21, lines 12-13, and Figure 3). The method of claim 7 includes storing images on a server, including associating each image with at least one group of images identified by an image

group identifier (page 28, lines 5-7, and Figure 4 at reference characters 402, 312, 314, 404, and 412). The method of claim 7 also includes receiving from a client a request for a group of images, the request comprising an image group identifier, the image group identifier derived from an attribute of a markup element of a document on the client (page 30, lines 15-17, and Figure 4 at reference characters 406, 302, 414, and 310). The method of claim 7 also includes retrieving from storage images identified by the image group identifier (page 31, lines 7-8, and Figure 4 at reference characters 408, 416, and 310). The method of claim 7 also includes sending the retrieved images to the client (page 32, line 1, and Figure 4 at reference character 410).

Claim 18 recites a system of distributing images in a data processing system (page 21, lines 12-13, and Figure 3). The system of claim 18 includes means for storing images on a server, including associating each image with at least one group of images identified by an image group identifier (page 28, lines 5-7, and Figure 4 at reference characters 402, 312, 314, 404, and 412). The system of claim 18 also includes means for receiving from a client a request for a group of images, the request comprising an image group identifier, the image group identifier derived from an attribute of a markup element of a document on the client (page 30, lines 15-17, and Figure 4 at reference characters 406, 302, 414, and 310). The system of claim 18 also includes means for retrieving from storage images identified by the image group identifier (page 31, lines 7-8, and Figure 4 at reference characters 408, 416, and 310). The system of claim 18 also includes means for sending the retrieved images to the client (page 32, line 1, and Figure 4 at reference character 410).

Claim 29 recites a computer program product of distributing images in a data processing system (page 21, lines 12-13, and Figure 3). The computer program product of claim 29 includes a recording medium (page 7, line 21, through page 8, line 5). The computer program product of claim 29 also includes means, recorded on the recording medium, for storing images on a server, including associating each image with at least one group of images identified by an image group identifier (page 28, lines 5-7, and Figure 4 at reference characters 402, 312, 314, 404, and 412). The computer program product of

claim 29 also includes means, recorded on the recording medium, for receiving from a client a request for a group of images, the request comprising an image group identifier, the image group identifier derived from an attribute of a markup element of a document on the client (page 30, lines 15-17, and Figure 4 at reference characters 406, 302, 414, and 310). The computer program product of claim 29 also includes means, recorded on the recording medium, for retrieving from storage images identified by the image group identifier (page 31, lines 7-8, and Figure 4 at reference characters 408, 416, and 310). The computer program product of claim 29 also includes means, recorded on the recording medium, for sending the retrieved images to the client (page 32, line 1, and Figure 4 at reference character 410).

GROUNDS OF REJECTION

In accordance with 37 CFR § 41.37(c)(1)(vi), Appellants provide the following concise statement for each ground of rejection:

1. Claims 1-33 stand rejected for obviousness under 35 U.S.C. § 103(a) as being unpatentable over Conboy, *et al.* (U.S. Patent No. 6,363,418) in view of Khosla, *et al.* (U.S. Patent No. 6,202,061) and further in view of Parulski, *et al.* (U.S. Publication No. 2004/0201752).

ARGUMENT

Appellants present the following argument pursuant to 37 CFR § 41.37(c)(1)(vii) regarding the ground of rejection on appeal in the present case.

Argument Regarding The Ground Of Rejection On Appeal:
Claims 1-33 Are Rejected Under 35 U.S.C. § 103(a) As Being Unpatentable
Over Conboy In View Of Khosla And Further In View Of Parulski.

Claims 1-33 stand rejected for obviousness under 35 U.S.C. § 103(a) as being unpatentable over Conboy, *et al.* (U.S. Patent No. 6,363,418) (hereafter ‘Conboy’) in view of Khosla, *et al.* (U.S. Patent No. 6,202,061) (hereafter ‘Khosla’) and further in view of Parulski, *et al.* (U.S. Publication No. 2004/0201752) (hereafter ‘Parulski’). The question of whether Appellants’ claims are obvious *vel non* is examined in light of: (1) the scope and content of the prior art; (2) the differences between the claimed invention and the prior art; (3) the level of ordinary skill in the art; and (4) any relevant secondary considerations, including commercial success, long felt but unsolved needs, and failure of others. *KSR Int’l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 2 (U.S. April 30, 2007). Although Appellants recognize that such an inquiry is an expansive and flexible one, the Office Action must nevertheless demonstrate a prima facie case of obviousness to reject Appellants’ claims for obviousness under 35 U.S.C. § 103(a). *In re Khan*, 441 F.3d 977, 985-86 (Fed. Cir. 2006). To establish a prima facie case of obviousness, the proposed combination of the references must teach or suggest all of Appellants’ claim limitations. *Manual of Patent Examining Procedure* § 2142 (citing *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974)). As shown below in more detail, the proposed combination of Conboy, Khosla, and Parulski cannot establish a prima facie case of obviousness because the proposed combination does not teach each and every element of the claims of the present application. The rejection of claims 1-33 should therefore be withdrawn and the claims should be allowed. Appellants respectfully traverse each rejection individually and request reconsideration of claims 1-33.

The Combination Of Conboy, Khosla, And Parulski Does Not Disclose Or Suggest Each And Every Element Of Claim 1 Of The Present Application

Claim 1 recites:

1. A method for distributing images in a data processing system, the method comprising:

receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document; and

retrieving the images, from the data processing system, in response to receiving the image group identifier.

Khosla Neither Discloses Nor Suggests An Image Group Identifier Identifying A Plurality Of Images

The Office Action takes the position that Khosla at column 1, line 65 – column 2, line 15, column 6, lines 15-30, and column 9, lines 25-55, discloses the following portion of the first element of claim 1: an image group identifier identifying a plurality of images. Appellants respectfully note in response, however, that what Khosla at column 1, line 65 – column 2, line 15, in fact discloses is:

The present invention discloses methods and apparatuses for creating a collection of digital media in a digital processing system. A method in one example of the invention defines search parameters, such as at least one search parameter. Using the search parameter, the digital processing system searches through parameters for a first plurality of digital media to obtain a second plurality of digital media which may be a subset of the first plurality of digital media. Then the digital processing system generates automatically after the search a media container for the second plurality of digital media.

In one particular embodiment of the present invention, the digital media are digital pictures and the media container is a picture album. The computer user may select the search criteria and then have the computer system automatically search through a picture database to provide the digital pictures which match the search parameters.

In addition, what Khosla at column 6, lines 15-30, in fact discloses is:

In step 265, the album authoring software determines the set of album pages based upon the selected layout. Further, the album authoring software assigns a unique number to each slot on the ordered set of album pages. Then in step 267, the album authoring software assigns the ordered list of pictures to the numbered slots on the album pages. For example, picture 1 in the ordered list of pictures is placed into slot 1 which would typically be on page 1 of the album. Picture 2 in the ordered list of pictures is placed into slot 2 which may be on page 1 of the album or on page 2 of the album. This assignment is performed for all pictures in the ordered list of pictures currently selected by the user for this particular album. In step 269, the album authoring software scales each picture if necessary to cause it to fit into the corresponding slot on the album page.

And, what Khosla at column 9, lines 22-55, actually discloses is:

The file system and operating system element 703 includes the original, higher resolution media objects 1 and 2 shown as elements 711 and 713. These elements are the actual digital (or other) data of the media object stored on the computer readable medium under control of the file or storage system such as a disk operating system. The file or storage system also stores properties which are the file system's properties for the media object, such as properties 712 and 714. These properties typically include the file's size for each media object as well as the date of creation, the date of last modification and the type of document. The album publishing/sharing software 705 includes a signature generator and comparator module which is responsible for generating representations or signatures of the media objects and to compare signatures or representations in accordance with the present invention. The web album publishing interface 719 performs functions relating to decoding information with respect to the albums and generating albums as a result of decoding the information specifying album format. The interface to web server system 721 is an optional software module which is used to allow the server computer system 111 to interface with the web server 109. Typically, some services are required in order to interface between the album publishing and sharing software and the software required for providing web server functionality. The interface to the dedicated database element 723 provides for database searching and editing of the dedicated database 707.

That is, Khosla at column 1, line 65 – column 2, line 15, discloses searching for a first plurality of digital media to obtain a second plurality of digital media, and generating, after a search, a media container for the second plurality of digital media. Khosla's searching for a first plurality of digital media to obtain a second plurality of digital media,

and generating, after a search, a media container for the second plurality of digital media does not disclose or suggest an image group identifier as claimed here. An image group identifier as claimed here identifies a plurality of images. Khosla does not disclose or suggest any identifier that identifies a plurality of images but instead discloses a search for a plurality of images. Khosla's media container is a place to collect digital media but does not disclose or suggest an image group identifier identifying a plurality of images as claimed in the present application.

In addition, what Khosla at column 6, lines 15-30, actually discloses is album authoring software that assigns an ordered list of pictures to numbered slots on album pages. Album authoring software that assigns an ordered list of pictures to numbered slots on album pages does not disclose or suggest an image group identifier identifying a plurality of images as claimed here. In fact, Khosla at column 6, lines 21-25, teaches placing individual pictures into individual slots on the album pages. An image group identifier as claimed in the present application, however, identifies a plurality of images. That is, Khosla is concerned with placing an individual picture while the image group identifier as claimed in the present application identifies a plurality of images.

In addition, what Khosla at column 9, lines 22-55, actually discloses is a file or storage system that stores properties which are the file system's properties for a media object. Khosla at column 9, lines 35-37, discloses that the file system's properties for a media object typically include the file's size for each media object as well as the date of creation, the date of last modification and the type of document. That is, Khosla's file system's properties describe the properties of a media object. Khosla's file system's properties then do not identify a plurality of images as claimed in the present application. Because Khosla's file system's properties do not identify a plurality of images, Khosla's file system's properties do not disclose or suggest an image group identifier identifying a plurality of images as claimed in the present application. Khosla does not disclose, suggest, or even mention, at these reference points or anywhere else, anything even remotely resembling an image group identifier identifying a plurality of images as claimed in the present application. Khosla does not disclose or suggest therefore the

cited portion of the first element of claim 1. Because Khosla does not disclose or an image group identifier identifying a plurality of images as claimed in the present application the Office Action cannot establish a *prima facie* case of obviousness. The rejections of claims 1-33 should be withdrawn, and the claims should be allowed.

Conboy Neither Discloses Nor Suggests Receiving A Data Stream, The Data Stream Comprising A Document Structured By Markup Elements Having Attributes

The Office Action takes the position that Conboy at column 2, lines 10-30, discloses the following portion of the first element of claim 1: receiving a data stream, the data stream comprising a document structured by markup elements having attributes. Appellants respectfully note in response, however, that what Conboy at column 2, lines 10-30, in fact discloses is:

Therefore, currently, there is a need for a simple and efficient method to perform on-line image caching control for efficient image display using a hypertext language.

SUMMARY OF THE INVENTION

The present invention is a method for on-line controlling caching of an image on a viewing device to efficiently display the image on the viewing device. The method comprises the following steps: (a) sending from a server to the viewing device an image tag included in a hypertext language code, the image tag having attributes, the attributes specifying the image; (b) parsing the hypertext language code including the image tag; (c) searching for a copy of the image in a cache memory of the viewing device using the image tag attributes; (d) displaying the copy of the image if the copy of the image is found in the cache memory and is current; (e) fetching the image from the server if the copy of the image is not found in the cache memory or if the copy of the image is not current; and (f) storing the fetched image and the image tag attributes in the cache memory.

That is, Conboy at column 2, lines 10-30, discloses sending from a server to a viewing device an image tag included in a hypertext language code, the image tag having attributes that specify an image. Conboy's sending from a server to a viewing device an image tag included in a hypertext language code, the image tag having attributes that

specify an image does not disclose or suggest receiving a data stream, the data stream comprising a document structured by markup elements having attributes as claimed in the present application. The data stream as claimed in the present application comprises a document structured by markup elements having attributes *and* an image group identifier identifying a plurality of images. Conboy does not disclose an image group identifier identifying a plurality of images but only discloses an image tag having attributes that specify an image, that is, a single image. Because Conboy does not disclose or suggest an image group identifier identifying a plurality of images as claimed in the present application, Conboy cannot disclose or suggest a data stream that comprises an image group identifier and a document structured by markup elements having attributes as claimed here. Conboy's sending from a server to the viewing device an image tag included in a hypertext language code, the image tag having attributes that specify an image does not disclose or suggest therefore, receiving a data stream, the data stream comprising a document structured by markup elements having attributes and an image group identifier identifying a plurality of images as claimed in the present application. The Office Action therefore cannot establish a *prima facie* case of obviousness. The rejections of claims 1-33 should be withdrawn, and the claims should be allowed.

**Parulski Neither Discloses Nor Suggests
Receiving The Image Group Identifier**

The Office Action takes the position that Parulski at page 8, paragraph 0088, discloses the following portion of the second element of claim 1: receiving the image group identifier. Appellants respectfully note in response, however, that what Parulski at page 8, paragraph 0088, in fact discloses is:

[0088] In block 128 of FIG. 3, the user selects a display mode, and the appropriate transferred images are displayed. The user can select a display of "all images", a display of "all favorite" images, or a display of a "selected group" of images. If the user selects the "display all" option, in block 130 the CPU motherboard 12 in the home computer 10 builds a request to retrieve all of the thumbnail images from the general assets table 600 in FIG. 8. In block 132 all of the image objects are retrieved, which includes the "favlevel" favorites level metadata 666. In block 134

all of the images are displayed in a way that organizes them into groups, with icons indicating the favorite images in the collection of images.

That is, Parulski at page 8, paragraph 0088, discloses a request to retrieve a selected group of images, such as “all images,” “all favorite” images, or another selected group. Parulski’s request to retrieve a selected group of images does not disclose receiving the image group identifier as claimed in the present application. To receive an image group identifier as claimed in the present application, a data stream comprising an image group identifier must be received. The data stream as claimed in the present application comprises a document structured by markup elements having attributes and the image group identifier is included in an attribute of a markup element of the document. Parulski does not disclose at paragraph 0088 or anywhere else, receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document as claimed in the present application. That is, Parulski does not disclose receiving a data stream comprising an image group identifier as claimed in the present application and as such cannot disclose receiving an image group identifier as claimed in the present application. The request to retrieve a selected group of images of Parulski therefore neither discloses nor suggests receiving an image group identifier as claimed in the present application. The Office Action therefore cannot establish a *prima facie* case of obviousness. The rejections of claims 1-33 should be withdrawn, and the claims should be allowed.

Conboy Neither Discloses Nor Suggests Retrieving The Images, From The Data Processing System

The Office Action takes the position that Conboy at column 2, lines 10-30, discloses the following portion of the second element of claim 1: retrieving the images, from the data processing system. Appellants respectfully note in response, however, that what Conboy at column 2, lines 10-30, quoted above, in fact discloses is fetching the image from the server if the copy of the image is not found in the cache memory or if the copy of the image is not current. Conboy’s fetching the image from the server if the copy of the

image is not found in the cache memory or if the copy of the image is not current does not disclose retrieving the images, from the data processing system as claimed in the present application. Retrieving the images, from the data processing system as claimed in the present application is carried out in response to receiving the image group identifier as claimed in the present application. Conboy does not disclose or suggest receiving an image group identifier as claimed in the present application. Because Conboy does not disclose receiving an image group identifier as claimed in the present application, Conboy cannot disclose retrieving the images from the data processing system, as claimed in the present application, where retrieving the images occurs in response to receiving the image group identifier as claimed in the present application. Conboy's fetching the image from the server if the copy of the image is not found in the cache memory or if the copy of the image is not current therefore neither discloses nor suggests retrieving the images, from the data processing system as claimed in the present application. The Office Action therefore cannot establish a *prima facie* case of obviousness. The rejections of claims 1-33 should be withdrawn, and the claims should be allowed.

**The Combination Of Conboy, Khosla, And Parulski Does
Not Disclose Or Suggest Each And Every Element
Of Claim 7 Of The Present Application**

Claim 1 recites:

7. A method for distributing images in a data processing system, the method comprising:

storing images on a server, including associating each image with at least one group of images identified by an image group identifier;

receiving from a client a request for a group of images, the request comprising an image group identifier, the image group identifier derived from an attribute of a markup element of a document on the client;

retrieving from storage images identified by the image group identifier;
and

sending the retrieved images to the client.

Parulski Neither Discloses Nor Suggests Storing Images On A Server

The Office Action takes the position that Parulski at page 8, paragraph 0088, discloses the following portion of the first element of claim 7: storing images on a server.

Appellants respectfully note in response, however, that what Parulski at page 8, paragraph 0088, quoted above, in fact discloses is a request to retrieve a selected group of images, such as “all images,” “all favorite” images, or another selected group. Parulski’s request to retrieve a selected group of images, such as “all images,” “all favorite” images, or another selected group does not disclose or suggest storing images on a server as claimed in the present application. Storing images on a server as claimed in the present application includes associating each image with a least one group of images by an image group identifier. Parulski does not disclose or suggest an image group identifier as claimed in the present application and as such cannot disclose or suggest storing images on a server, including associating each image with at least one group of images identified by such an image group identifier as claimed in the present application. Because Parulski does not disclose or suggest storing images on a server as claimed in the present application the Office Action cannot establish a *prima facie* case of obviousness. The rejections of claims 1-33 should be withdrawn, and the claims should be allowed.

Conboy Neither Discloses Nor Suggests The Image Identifier Derived From An Attribute Of A Markup Element Of A Document On The Client

The Office Action takes the position that Conboy at column 2, lines 10-30, discloses the following portion of the second element of claim 7: the image identifier derived from an attribute of a markup element of a document on the client. What Conboy actually

discloses at column 2, lines 10-30, quoted above, is sending from a server to a viewing device an image tag included in a hypertext language code, the image tag having attributes that specify an image. Appellants submit, however, that the ‘image identifier,’ read with proper antecedent basis, as claimed here, is an ‘image group identifier,’ and Conboy’s image tag included in a hypertext language code, the image tag having attributes that specify an image does not teach or suggest an image group identifier as claimed here. It cannot be said then that Conboy discloses or suggests an image identifier derived from an attribute of a markup element of a document on the client as claimed in the present application where the image identifier is an image group identifier. Because Conboy does not disclose or suggest the image identifier derived from an attribute of a markup element of a document on the client, the Office Action cannot establish a *prima facie* case of obviousness. The rejections of claims 1-33 should be withdrawn, and the claims should be allowed.

Relations Among Claims

Independent claim 1 claims method aspects of distributing images in a data processing system according to embodiments of the present invention. Independent claims 12 and 23 respectively claim system and computer program product aspects of distributing images in a data processing system according to embodiments of the present invention. Claim 1 is allowable for the reasons set forth above. Claims 12 and 23 are allowable because claim 1 is allowable. The rejections of claims 12 and 23 therefore should be withdrawn, and claims 12 and 23 should be allowed.

Claims 2-6, 13-17, and 24-28 depend respectively from independent claims 1, 12, and 23. Each dependent claim includes all of the limitations of the independent claim from which it depends. Because the combination of Conboy, Khosla, and Parulski does not disclose or suggest each and every element of the independent claims, so also the combination of Conboy, Khosla, and Parulski cannot possibly disclose or suggest each and every element of any dependent claim. The rejections of Claims 2-6, 13-17, and 24-28 therefore should be withdrawn, and these claims also should be allowed.

Independent claim 7 claims method aspects of distributing images in a data processing system according to embodiments of the present invention. Independent claims 18 and 29 respectively claim system and computer program product aspects of distributing images in a data processing system according to embodiments of the present invention. Claim 7 is allowable for the reasons set forth above. Claims 18 and 29 are allowable because claim 7 is allowable. The rejections of claims 18 and 29 therefore should be withdrawn, and claims 18 and 29 should be allowed.

Claims 8-11, 19-22, and 30-33 depend respectively from independent claims 7, 18, and 29. Each dependent claim includes all of the limitations of the independent claim from which it depends. Because the combination of Conboy, Khosla, and Parulski does not disclose or suggest each and every element of the independent claims, so also the combination of Conboy, Khosla, and Parulski cannot possibly disclose or suggest each and every element of any dependent claim. The rejections of Claims 8-11, 19-22, and 30-33 therefore should be withdrawn, and these claims also should be allowed.

**The Office Action Does Not Examine
Claims 1-33 Pursuant To *Graham***

In addition to the fact that the Office Action has not established a *prima facie* of obviousness there is another reason that the rejection of claims 1-33 should be withdrawn: The Office Action does not examine Appellants' claims in light of the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The question of whether Appellants' claims are obvious *vel non* is examined in light of: (1) the scope and content of the prior art; (2) the differences between the claimed invention and the prior art; (3) the level of ordinary skill in the art; and (4) any relevant secondary considerations, including commercial success, long felt but unsolved needs, and failure of others. *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 2 (U.S. April 30, 2007); *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). "To facilitate review, this analysis should be made explicit." *KSR*, slip op. at 14, citing *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006). That is, the Office Action must make explicit an analysis of the

factual inquiries set forth in *Graham*. Appellants respectfully submit, however, that the Office Action does not make explicit any analysis of the factual inquiries set forth in *Graham*. The Office Action does not make explicit any analysis of the scope and content of the prior art. Instead, the Office Action only cites a small portion of three references, Conboy, Khosla, and Parulski. The Office Action also does not make explicit an analysis of the level of ordinary skill in the art. In fact, the Office Action does not mention anything at all concerning the level of ordinary skill in the art. Because the Office Action has not made explicit the analysis of factual inquiries set forth in *Graham*, the rejections of claims 1-33 under 35 U.S.C. § 103 are improper and should be withdrawn.

CONCLUSION OF APPELLANT'S ARGUMENTS

Claims 1-33 stand rejected for obviousness under 35 U.S.C. § 103(a) as being unpatentable over Conboy in view of Khosla and further in view of Parulski. For the reasons set forth above, however, the proposed combination of Conboy, Khosla, and Parulski does not establish a *prima facie* case of obviousness. The rejection of claims 1-33 should therefore be withdrawn, and the claims should be allowed. Appellants respectfully traverse each rejection individually and request reconsideration of claims 1-33 in light of the present remarks.

In view of the arguments above, reversal on all grounds of rejection is requested.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

By:


John R. Biggers
Reg. No. 44,537
Biggers & Ohanian, LLP
P.O. Box 1469
Austin, Texas 78767-1469
Tel. (512) 472-9881
Fax (512) 472-9887
ATTORNEY FOR APPELLANTS

**APPENDIX OF CLAIMS
ON APPEAL IN PATENT APPLICATION OF
HUNG T. DINH, *ET AL.*, SERIAL NO. 10/631,057**

CLAIMS

What is claimed is:

1. A method for distributing images in a data processing system, the method comprising:

receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document; and

retrieving the images, from the data processing system, in response to receiving the image group identifier.

2. The method of claim 1 further comprising displaying the images, wherein the receiving, retrieving, and displaying steps are performed by a client and wherein the images are retrieved from a server.

3. The method of claim 2 wherein:

retrieving the images further comprises retrieving the plurality of images identified by the image group identifier before displaying any of the images; and

displaying the images further comprises displaying the images according to markup in the data stream.

4. The method of claim 2 wherein:

the data stream comprises a markup element that represents an instruction to retrieve, during a single communications connection to the server, all images identified by the image group identifier, and

the markup element comprises the image group identifier.

5. The method of claim 2 wherein retrieving the images comprises aggregating the images in a data structure on the client.

6. The method of claim 2 wherein:

the data stream comprises markup elements that represent instructions to display images at display locations, and

the markup elements that represent instructions to display images at display locations comprise identifications of images in a data structure on the client.

7. A method for distributing images in a data processing system, the method comprising:

storing images on a server, including associating each image with at least one group of images identified by an image group identifier;

receiving from a client a request for a group of images, the request comprising an image group identifier, the image group identifier derived from an attribute of a markup element of a document on the client;

retrieving from storage images identified by the image group identifier; and

sending the retrieved images to the client.

8. The method of claim 7 wherein:

storing images further comprises storing images as BLOBs in a database, and

associating each image with at least one group of images comprises storing an image identifier for each BLOB in association with an image group identifier for each file.

9. The method of claim 7 wherein:

storing images further comprises storing images as files on a file system, and

associating each image with at least one group of images comprises storing a pathname for each file in association with an image group identifier for each file.

10. The method of claim 7 further comprising associating the groups of images with an image retrieval routine, wherein retrieving the images further comprises invoking the image retrieval routine.

11. The method of claim 7 further comprising storing on the server documents comprising markup according to a markup language, wherein each document further comprises:

at least one markup element containing an image group identifier identifying a group of images, and

markup elements that comprise identifications of individual images in a data structure on the client and represent instructions to display individual images at particular display locations.

12. A system for distributing images in a data processing system, the system comprising:

means for receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document; and

means for retrieving the images, from the data processing system, in response to operation of the means for receiving the image group identifier.

13. The system of claim 12 further comprising means for displaying the images, wherein the means for receiving, means for retrieving, and means for displaying are comprised in a client and wherein the images are retrieved from a server.

14. The system of claim 13 wherein:

means for retrieving the images further comprises means for retrieving the plurality of images identified by the image group identifier before displaying any of the images; and

means for displaying the images further comprises means for displaying the images according to markup in the data stream.

15. The system of claim 13 wherein:

the data stream comprises a markup element that represents an instruction to retrieve, during a single communications connection to the server, all images identified by the image group identifier, and

the markup element comprises the image group identifier.

16. The system of claim 13 wherein means for retrieving the images comprises means for aggregating the images in a data structure on the client.

17. The system of claim 13 wherein:

the data stream comprises markup elements that represent instructions to display images at display locations, and

the markup elements that represent instructions to display images at display locations comprise identifications of images in a data structure on the client.

18. A system for distributing images in a data processing system, the system comprising:

means for storing images on a server, including means for associating each image with at least one group of images identified by an image group identifier;

means for receiving from a client a request for a group of images, the request comprising an image group identifier, the image group identifier derived from an attribute of a markup element of a document on the client;

means for retrieving from storage images identified by the image group identifier; and

means for sending the retrieved images to the client.

19. The system of claim 18 wherein:

means for storing images further comprises means for storing images as BLOBs in a database, and

means for associating each image with at least one group of images comprises means for storing an image identifier for each BLOB in association with an image group identifier for each file.

20. The system of claim 18 wherein:

means for storing images further comprises means for storing images as files on a file system, and

means for associating each image with at least one group of images comprises means for storing a pathname for each file in association with an image group identifier for each file.

21. The system of claim 18 further comprising means for associating the groups of images with an image retrieval routine, wherein means for retrieving the images further comprises means for invoking the image retrieval routine.

22. The system of claim 18 further comprising means for storing on the server documents comprising markup according to a markup language, wherein each document further comprises:

at least one markup element containing an image group identifier identifying a group of images, and

markup elements that comprise identifications of individual images in a data structure on the client and represent instructions to display individual images at particular display locations.

23. A computer program product for distributing images in a data processing system, the computer program product comprising:
 - a recording medium;
 - means, recorded on the recording medium, for receiving a data stream comprising an image group identifier identifying a plurality of images, the data stream comprising a document structured by markup elements having attributes, the image group identifier included in an attribute of a markup element of the document; and
 - means, recorded on the recording medium, for retrieving the images, from the data processing system, in response to operation of the means for receiving the image group identifier.
24. The computer program product of claim 23 further comprising means, recorded on the recording medium, for displaying the images, wherein the means for receiving, means for retrieving, and means for displaying are comprised in a client and wherein the images are retrieved from a server.
25. The computer program product of claim 24 wherein:
 - means for retrieving the images further comprises means, recorded on the recording medium, for retrieving the plurality of images identified by the image group identifier before displaying any of the images; and
 - means for displaying the images further comprises means, recorded on the recording medium, for displaying the images according to markup in the data stream.
26. The computer program product of claim 24 wherein:

the data stream comprises a markup element that represents an instruction to retrieve, during a single communications connection to the server, all images identified by the image group identifier, and

the markup element comprises the image group identifier.

27. The computer program product of claim 24 wherein means for retrieving the images comprises means, recorded on the recording medium, for aggregating the images in a data structure on the client.

28. The computer program product of claim 24 wherein:

the data stream comprises markup elements that represent instructions to display images at display locations, and

the markup elements that represent instructions to display images at display locations comprise identifications of images in a data structure on the client.

29. A computer program product for distributing images in a data processing system, the computer program product comprising:

a recording medium;

means, recorded on the recording medium, for storing images on a server, including means, recorded on the recording medium, for associating each image with at least one group of images identified by an image group identifier;

means, recorded on the recording medium, for receiving from a client a request for a group of images, the request comprising an image group identifier, the

image group identifier derived from an attribute of a markup element of a document on the client;

means, recorded on the recording medium, for retrieving from storage images identified by the image group identifier; and

means, recorded on the recording medium, for sending the retrieved images to the client.

30. The computer program product of claim 29 wherein:

means for storing images further comprises means, recorded on the recording medium, for storing images as BLOBs in a database, and

means for associating each image with at least one group of images comprises means, recorded on the recording medium, for storing an image identifier for each BLOB in association with an image group identifier for each file.

31. The computer program product of claim 29 wherein:

means for storing images further comprises means, recorded on the recording medium, for storing images as files on a file system, and

means for associating each image with at least one group of images comprises means, recorded on the recording medium, for storing a pathname for each file in association with an image group identifier for each file.

32. The computer program product of claim 29 further comprising means, recorded on the recording medium, for associating the groups of images with an image retrieval routine, wherein means for retrieving the images further comprises

means, recorded on the recording medium, for invoking the image retrieval routine.

33. The computer program product of claim 29 further comprising means, recorded on the recording medium, for storing on the server documents comprising markup according to a markup language, wherein each document further comprises:

at least one markup element containing an image group identifier identifying a group of images, and

markup elements that comprise identifications of individual images in a data structure on the client and represent instructions to display individual images at particular display locations.

**APPENDIX OF EVIDENCE
ON APPEAL IN PATENT APPLICATION OF
HUNG T. DINH, *ET AL.*, SERIAL NO. 10/631,057**

This is an evidence appendix in accordance with 37 CFR § 41.37(c)(1)(ix).

There is in this case no evidence submitted pursuant to 37 CFR §§ 1.130, 1.131, or 1.132, nor is there in this case any other evidence entered by the examiner and relied upon by the Appellants.

RELATED PROCEEDINGS APPENDIX

This is a related proceedings appendix in accordance with 37 CFR § 41.37(c)(1)(x). There are no decisions rendered by a court or the Board in any proceeding identified pursuant to 37 CFR § 41.37(c)(1)(ii).